

Cancel claims 1-20 without prejudice.

REMARKS

Reconsideration of this application and entry of the foregoing amendments are respectfully requested.

At the outset, the Examiner is again urged to reconsider the requirement for restriction. As the Examiner is aware, this case is a continuation of Appln. No. 08/191,160, now USP 6,210,675 (a copy of the patent claims is attached for the Examiner's ease of reference). The language of newly presented claims 21 to 32 parallels that of the patent claims, the former, however, being drawn to a nucleotide sequence and the latter being drawn to a polypeptide. It is understood from the Examiner's comments presented on page 2 of the Action that the reason for the restriction requirement here is largely based on that which is seen to pose a serious search burden. Given that, in the parent case, the Office did not find it unduly burdensome to search the claims that issued there, it is respectfully submitted that consistency requires that claims of the scope of newly presented claims be considered here. Again, reconsideration is requested. (The Examiner's requirement for amendment of the claims is noted, however, in view of the above further request for reconsideration and additionally in view of

the fact that a Petition has been filed to withdraw or restructure the restriction requirement, amendment at the present time is believed to be inappropriate.)

The title has been revised as requested.

The Examiner contention that the Information Disclosure Statement filed September 18, 2000, is not in compliance with the provisions of 37 CFR 1.97, 1.98 and MPEP 609 is, respectfully, not well founded. MPEP 609 states that:

There are exceptions to this requirement that a copy of the information must be provided. First, 37 CFR 1.98(d) states that a copy of publication, pending U.S. application, or other information listed in an information disclosure statement is not required to be provided if: (1) the information was previously cited by or submitted to, the Office in a prior application, provided that the prior application is properly identified in the IDS and is relied on for an earlier filing date under 35 U.S.C. 120; and (2) the IDS submitted in the earlier application complies with 37 CFR 1.98(a)-(c). (Underlining added)

It is submitted that both requirements (1) and (2) were met in the September 18, 2000 filing. The documents to which the Examiner refers (Attachments A and B), are of record in the parent case (for the Examiner's ease of reference, attached is the PTO 1449 Form from the patent case that lists the Attachments (PTO date stamped November 20, 1997)) - it bears the Examiner's initials. The Attachments are listed on the face of the resulting patent. The September 18, 2000 coversheet submitted with the PTO 1449 Forms identifies those Forms as listing art cited in the parent cases. The coversheet also

identifies the parents in requesting that the specification be amended to include the sentence:

This application is a continuation of application Serial No. 08/191,160, filed February 3, 1994, which is a continuation of application Serial No. 07/628,516, filed December 17, 1990 ....

Accordingly, nothing further is believed to be required and another copy of the PTO 1449 Form listing the Attachments that was originally submitted September 18, 2000 is attached and the Examiner is requested to initial and return same.

The Examiner contends that the application lacks reference to the prior application. In so stating, the Examiner has apparently overlooked the above-described request appearing on the September 18, 2000 coversheet for amendment of the specification to include that prior reference. The statement has now been updated to reflect the current status of the parent case.

Claims 9-13 stand rejected under 35 USC 112, second paragraph, as allegedly being indefinite. Withdrawal of the rejection is submitted to be in order in view of the above-noted claim revisions which bring the language of the claims into a form entirely consistent with that view by the Office in connection with the parent case to be allowable.

Reconsideration is requested.

Claims 9-13 stand rejected under 35 USC 112, first paragraph, as allegedly being non-enabled and as allegedly lacking written description. Withdrawal of the rejections is submitted to be in order in view of the above-noted claim revisions which bring the claims into a form entirely consistent with that view by the Office in connection with the parent case to be allowable. Reconsideration is requested.

Claims 9-13 stand rejected under 35 USC 102(b) as allegedly being anticipated by Houghton et al. Withdrawal of the rejection is believed to be in order in view of the above-noted claim revisions. Reconsideration is requested.

Attached hereto is a marked-up version of the change made to the specification by the current amendment. The attached page is captioned "Version With Markings To Show Changes Made."

This application is submitted to be in condition for allowance and a Notice to that effect is requested.

Respectfully submitted,

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

The paragraph beginning a page 1, just following the title, amend as follows:

This application is a continuation of application Serial No. 08/191,160, filed February 3, 1994, now USP 6,210,675, which is a continuation of application Serial No. 07/628,516, filed December 17, 1990, the entire content of which is hereby incorporated by reference in this application.

What is claimed is:

1. An isolated polypeptide comprising an antigen, which antigen has an amino acid sequence that shares at least 90% sequence homology with the amino acid sequence encoded by the post-transfusional non-A non-B hepatitis (PT-NANBH) virus genome and which is encoded in the nucleotide sequence set forth in SEQ ID NO:3, SEQ ID NO:4, SEQ ID NO:19, SEQ ID NO:20 or in bases 308-2116 of the nucleotide sequence set forth in SEQ ID NO:21 or in the nucleotide sequence set forth in SEQ ID NO:22.

2. An isolated polypeptide according to claim 1, in which the amino acid sequence shares at least 90% sequence homology with the amino acid sequence encoded in the nucleotide sequence set forth in SEQ ID NO:3 or SEQ ID NO:4.

3. The isolated polypeptide according to claim 2, wherein the amino acid sequence shares at least 95% sequence homology with the amino acid sequence encoded in the nucleotide sequence set forth in SEQ ID NO:3 or SEQ ID NO:4.

4. The isolated polypeptide according to claim 3 wherein the amino acid sequence shares at least 98% sequence homology with the amino acid sequence encoded in the nucleotide sequence set forth in SEQ ID NO:3 or SEQ ID NO:4.

5. An isolated polypeptide according to claim 1 in which the amino acid sequence shares at least 95% sequence homology with the amino acid sequence encoded in the nucleotide sequence set forth in SEQ ID NO:3, SEQ ID NO:4, SEQ ID NO:19, SEQ ID NO:20 or in bases 308-2116 of the nucleotide sequence set forth in SEQ ID NO:21 or in the nucleotide sequence set forth in SEQ ID NO:22.

6. An isolated polypeptide according to claim 5, in which the amino acid sequence shares at least 98% sequence homology with the amino acid sequence encoded in the nucleotide sequence set forth in SEQ ID NO:3, SEQ ID NO:4, SEQ ID NO:19, SEQ ID NO:20 or in bases 308-2116 of the nucleotide sequence set forth in SEQ ID NO:21 or in the nucleotide sequence set forth in SEQ ID NO:22.

7. An isolated polypeptide having the amino acid sequence encoded in the nucleotide sequence set forth in SEQ ID NO:3, SEQ ID NO:4, SEQ ID NO:5, or in bases 308-504 of the nucleotide sequence set forth in SEQ ID NO:18, or in the nucleotide sequence set forth in SEQ ID NO:19 or SEQ ID NO:20, or in bases 308-2116 of the nucleotide sequence set forth in SEQ ID NO:21 or in the nucleotide sequence set forth in SEQ ID NO:22.

8. The polypeptide of claim 2, having the amino acid sequence encoded in the nucleotide sequence set forth in SEQ ID NO:3, SEQ ID NO:4, or SEQ ID NO:5.

9. An isolated polypeptide having the amino acid sequence encoded in the nucleotide sequence set forth in SEQ ID NO:3 or SEQ ID NO:4.

10. An isolated polypeptide comprising an antigen having an amino acid sequence that shares at least 98% sequence homology identity with the amino acid sequence encoded in the nucleotide sequence set forth in SEQ ID NO:5.

11. An isolated polypeptide comprising an antigen having an amino acid sequence that shares at least 98% sequence homology with the amino acid sequence encoded in the nucleotide sequence set forth in SEQ ID NO:18 from bases 308-504.

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